

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
STATE OF TEXAS

In the Matter of )

Assessment and Collection )  
of Regulatory Fees for )  
Fiscal Year 1995 )

MD Docket No. 95-3

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**REPLY COMMENTS OF THE  
AMERICAN PUBLIC COMMUNICATIONS COUNCIL**

The American Public Communications Council ("APCC") submits the following reply to comments filed in response to the Commission's Notice of Proposed Rulemaking, FCC 95-14, released January 12, 1994 ("Notice"). APCC's reply comments are directed to the proposed fees applicable to wireline common carrier services provided by resellers. Notice, ¶¶ 55-61.

**I. THE BASIS FOR ASSESSING FEES ON OPERATOR SERVICE PROVIDERS SHOULD BE CLARIFIED OR MODIFIED**

CompTel and LDDS concur in APCC's position that the basis for assessing fees on operator services should be clarified or modified. If fees are to be assessed based on the number of "billing accounts," then it is necessary to provide an appropriate definition of "billing account." As CompTel explains, treating each separate end user of a payphone as a different "billing account" would impose an extreme and disproportionate burden on operator service providers. CompTel at 4; LDDS at 30-31. A better approach would be to assess fees based on the number of presubscribed lines, or lines on which the carrier is the "default" provider of operator services, less any lines which have already

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been reported by the carrier for purposes of paying a regulatory fee. CompTel at 5. As CompTel points out, adoption of this method would tend to ensure that OSPs pay regulatory fees on the same basis as other interstate interexchange carriers. Id.

**II. IPP PROVIDERS' LINES SHOULD NOT BE SUBJECT TO DOUBLE PAYMENT ANY MORE THAN OTHER SWITCHLESS RESELLERS' LINES**

APCC also agrees with CompTel and others that lines used by switchless resellers should not be subject to fees assessed against both the reseller and the underlying facilities-based interexchange carrier. See, e.g., CompTel at 7-8; LDDS at 4-18. Independent public payphone ("IPP") providers are switchless resellers and are subject to the same "double payment" problem identified by these commenting parties with respect to other switchless resellers. Since resale does not create a double regulatory burden, it should not incur a double payment. Payphone lines, as well as other resold lines, should not be subject to more than one payment by an interexchange carrier.

On a related issue, LDDS argues that carriers presubscribed to a payphone should pay only once on each line terminating at a payphone; they should not pay fees on both the presubscribed line (as a carrier) and on the pay telephone (as a "pay telephone service" provider). LDDS at 29-30. APCC agrees. However, it is important to clarify that the owner or provider also should pay only once on each payphone line. Even though the payphone provider may fall under more than fee category, the payphone provider should

not be required, any more than a presubscribed carrier, to pay on both the payphone and the payphone line.

**III. LEC PAYPHONES MUST BE PLACED ON THE SAME REGULATORY FOOTING AS INDEPENDENT PUBLIC PAYPHONES**

Finally, the comments do not dispute that, as explained in APCC's initial comments, LEC payphones and the services provided from such payphones should be subject to regulatory fees on the same basis as IPPs. APCC at 3-6. If fees are imposed on services provided at IPPs, the same fees should be imposed on services provided at LEC payphones, in addition to the fees otherwise applicable to LECs as access service providers.

Further, to ensure that the application of fees is truly equitable, and that regulatory fees for the LECs' competitive payphone services are not subsidized by ratepayers for non-competitive telecommunications services, the Commission must take action to ensure the removal of payphones from the LECs' rate base of local exchange facilities. Id.

Respectfully submitted,



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